



ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA-R06-OAR-2011-0034; FRL-9936-37-Region 6]

Approval and Promulgation of Air Quality Implementation Plans; Oklahoma

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: Under the Federal Clean Air Act (CAA or Act) the Environmental Protection Agency (EPA) is approving revisions to the Oklahoma State Implementation Plan (SIP) submitted by the State of Oklahoma designee. The revisions are administrative in nature and modify redundant or erroneous text within the SIP. The revisions also incorporate new definitions and the current national ambient air quality standards (NAAQS) for four criteria pollutants; delete a subchapter that addresses motor vehicle pollution control devices; and add requirements for certain incinerators.

DATES: This rule is effective on [INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER] without further notice, unless EPA receives relevant adverse comment by [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]. If EPA receives such comment, EPA will

publish a timely withdrawal in the **Federal Register** informing the public that this rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA-R06-OAR-2011-0034, by one of the following methods:

- *www.regulations.gov*. Follow the on-line instructions.
- E-mail: Carrie Paige at *paige.carrie@epa.gov*.
- Mail: Guy Donaldson, Chief, Air Planning Section (6PD-L), Environmental Protection Agency, 1445 Ross Avenue, Suite 1200, Dallas, Texas 75202-2733.

Instructions: Direct your comments to Docket ID No. EPA-R06-OAR-2011-0034. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information the disclosure of which is restricted by statute. Do not submit information through *www.regulations.gov* or e-mail, if you believe that it is CBI or otherwise protected from disclosure. The *www.regulations.gov* website is an "anonymous access" system, which means that EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment along with any disk or CD-ROM submitted. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification,

EPA may not be able to consider your comment. Electronic files should avoid the use of special characters and any form of encryption and should be free of any defects or viruses. For additional information about EPA's public docket, visit the EPA Docket Center homepage at www.epa.gov/epahome/dockets.htm.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region 6, 1445 Ross Avenue, Suite 700, Dallas, Texas. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available at either location (e.g., CBI).

FOR FURTHER INFORMATION CONTACT: Carrie Paige, (214) 665-6521 or paige.carrie@epa.gov. To inspect the hard copy materials, please schedule an appointment with her or Mr. Bill Deese at (214) 665-7253.

SUPPLEMENTARY INFORMATION: Throughout this document, "we," "us," and "our" means the EPA.

I. Background

Section 110 of the Act requires states to develop air pollution regulations and control strategies to ensure that air quality meets the EPA's NAAQS. These ambient standards are established under section 109 of the Act and they currently address six criteria pollutants: carbon monoxide, nitrogen dioxide, ozone, lead, particulate matter, and sulfur dioxide. The state's air regulations are contained in its SIP, which is basically a clean air plan. Each state is responsible

for developing SIPs to demonstrate how the NAAQS will be achieved, maintained, and enforced. The SIP must be submitted to EPA for approval and any changes a state makes to the approved SIP also must be submitted to the EPA for approval.

The Secretary of the Oklahoma Department of Environmental Quality (ODEQ) submitted revisions for approval by EPA on July 16th and December 27th of 2010, February 6, 2012, and January 18, 2013. The revisions address air pollution regulations and control strategies codified in the Oklahoma Administrative Code (OAC) under Title 252 (DEQ), Chapter 100 (Air Pollution Control). Three of the four submittals include revisions that address air permitting and incorporate by reference applicable provisions of Title 40 of the Code of Federal Regulations (denoted 40 CFR). These revisions can be evaluated independently (i.e., are severable) and will be evaluated in separate actions. Further, we are not acting on submitted revisions to the State's NO_x rules because these revisions can be evaluated independently and we will consider these rule revisions in a separate action. Table C-1 in the Technical Support Document (TSD) lists the four submittals and identifies which portions are evaluated in this rulemaking action and which will be evaluated in separate actions.¹ The revisions under evaluation in Section II of this action apply to the following sections within Chapter 100: Subchapter 15 (Motor Vehicle Pollution Control Devices); subchapter 17 (Incinerators); subchapter 19 (Control of Emission of Particulate Matter); subchapter 25 (Visible Emissions and Particulates); appendices A and B within subchapter 17; appendices C, D, and G within subchapter 19; and appendices E and F within subchapter 3 (Air Quality Standards and Increments).²

¹ The TSD is provided in the docket for this rulemaking.

² The cover letter for the January 18, 2013 submittal lists revisions to subchapter 31, but no such revisions were provided in the submittal package; therefore, they are not before EPA for consideration.

The substantive revisions in the four submittals before us include incorporation of new definitions; updating the SIP with the current NAAQS for lead, ozone, nitrogen dioxide (NO₂) and sulfur dioxide (SO₂); and adding specific requirements for certain incinerators. The non-substantive revisions delete redundant definitions; move certain definitions into other locations within the SIP; and correct erroneous text.

The criteria used to evaluate these SIP revisions are found primarily in section 110 of the CAA. Section 110(l) requires that a SIP revision submitted to EPA be adopted after reasonable notice and public hearing and also requires that EPA not approve a SIP revision if the revision would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA. Our TSD contains a detailed evaluation of the revisions, describing how each revision meets the requirements for SIP approval.

II. EPA's Evaluation of the Revisions

A synopsis of the submitted revisions and our evaluation follows.

A. Subchapter 15, Motor Vehicle Pollution Control Devices

The ODEQ removes subchapter 15 in its entirety. Subchapter 15 is duplicative of section 203 of the CAA. Subchapter 15 was not ever required to be in the Oklahoma SIP and did not supersede or otherwise modify requirements for pollution control devices on motor vehicles.³ In addition, subchapter 15 was not used as a source of emission reductions and did not contribute toward attainment in Oklahoma (see 45 FR 79051, November 28, 1980). The State's annual motor vehicle inspection and emission anti-tampering rules remain in the SIP (see 61 FR 7709,

³ Section 203 of the CAA prohibits tampering with any device or element of design installed on or in a motor vehicle or motor vehicle engine in compliance with motor vehicle emission standards.

February 29, 1996). Removal of subchapter 15 from the SIP does not constitute loss in emission reductions because such rules are in place and enforceable at the federal level.

B. Subchapter 17, Incinerators

Part 1 clarifies that incinerators used to generate useful heat energy are subject to all applicable requirements of subchapter 17. Part 3 adds specificity by identifying the applicable sources; clarifying existing definitions and requirements; expanding incinerator design requirements to include operation requirements; and adding definitions for “Particulate matter” and “Secondary combustion chamber.” Other revisions to parts 1 and 3 are non-substantive and delete redundant text.

A new part 4 addresses biomedical waste incinerators. The new terms and definitions, design and operation, and emission limits are consistent with EPA’s Standards of Performance for New Stationary Sources: Hospital/Medical/Infectious Waste Incinerators (see 74 FR 51368, October 6, 2009 and 40 CFR 60.51c), and EPA’s Standards Of Performance for Incinerators at 40 CFR 60, Subpart E.

The ODEQ removes appendix B, renames appendix A, and moves the appendix B formulas into A. A typographical error was corrected. There were no changes to the allowable emission rates.

C. Subchapter 19, Control of Emissions of Particulate Matter

The ODEQ submits new definitions for “Condensable particulate matter,” “Filterable particulate matter,” and “Total particulate matter.” They are consistent with the definitions addressing particulate matter at 40 CFR 51.100. Other revisions to this subchapter clarify that the particulate matter (PM) emission rates in this subchapter refer to condensable and filterable PM.

The submitted revisions also address appendices C, D and G within subchapter 19. The revisions are confined to retitling the appendices, such that each now includes “particulate matter” in its title.

D. Subchapter 25, Visible Emissions and Particulates

The submitted revisions include a non-substantive edit to style and the correction of an error in a citation at 100-25-3(b)(3). These revisions to subchapter 25 provide consistency and accuracy.

E. Appendix E (Primary Ambient Air Quality Standards) and Appendix F (Secondary Ambient Air Quality Standards)

The ODEQ revised appendices E and F for the 2008 NAAQS for ozone⁴ and lead and the 2010 NAAQS for NO₂ and SO₂.

F. Consistency with Section 110(l) of the CAA

The submitted revisions addressed in today’s rulemaking provide consistency with the NAAQS and EPA’s rules regarding incinerators, and provide clarity and accuracy, thus improving the Oklahoma SIP. These revisions will not interfere with any applicable requirement regarding attainment or any other applicable requirement of the CAA and are consistent with section 110(l) of the Act.

III. Final Action

The EPA is approving all or parts of four Oklahoma SIP submittals. Specifically, we are approving the portions of the July 16, 2010 submittal that revise appendices C, D, E, F and G and

⁴ On October 1, 2015, the EPA announced its decision to strengthen the ozone NAAQS, which does not obstruct our action here. See [<http://www3.epa.gov/airquality/ozonepollution/actions.html#sep2015>]. Because Oklahoma elects to have its SIP refer to specific iterations of the NAAQS, it will need to revise it from time to time to reflect the current NAAQS.

subchapters 19 and 25. We are also approving in whole the December 27, 2010 submittal that revises subchapter 15 and appendices E and F. We are also approving the portion of the February 6, 2012 submittal that revises appendix E. We are also approving the portion of the January 18, 2013 submittal that revises subchapter 17 and appendices A and B. The EPA is approving these SIP revisions in accordance with the requirements of the CAA.

The EPA is publishing this rule without prior proposal because we view this as a non-controversial amendment and anticipate no adverse comments. However, in the proposed rules section of this **Federal Register** publication, we are publishing a separate document that will serve as the proposal to approve the SIP revision if relevant adverse comments are received. This rule will be effective on **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]** without further notice unless we receive adverse comment by **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. If we receive adverse comments, we will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. We will address all public comments in a subsequent final rule based on the proposed rule. We will not institute a second comment period on this action. Any parties interested in commenting must do so now. Please note that if we receive adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, we may adopt as final those provisions of the rule that are not the subject of an adverse comment.

IV. Incorporation by Reference

In this rule, we are finalizing regulatory text that includes incorporation by reference. In accordance with the requirements of 1 CFR 51.4, we are finalizing the incorporation by reference

of the revisions to the Oklahoma regulations as described in the preceding Final Action section. We have made, and will continue to make, these documents generally available electronically through *www.regulation.gov* and/or in hard copy at the EPA Region 6 office.

V. Statutory and Executive Order Reviews

Under the CAA, the Administrator is required to approve a SIP submission that complies with the provisions of the Act and applicable federal regulations. 42 U.S.C. 7410(k); 40 CFR 52.02(a). Thus, in reviewing SIP submissions, EPA's role is to approve state choices, provided that they meet the criteria of the CAA. Accordingly, this action merely proposes to approve state law as meeting federal requirements and does not impose additional requirements beyond those imposed by state law. For that reason, this action:

- Is not a "significant regulatory action" subject to review by the Office of Management and Budget under Executive Orders 12866 (58 FR 51735, October 4, 1993) and 13563 (76 FR 3821, January 21, 2011);
- Does not impose an information collection burden under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501 et seq.);
- Is certified as not having a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.);
- Does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104-4);
- Does not have federalism implications as specified in Executive Order 13132 (64 FR 43255, August 10, 1999);

- Is not an economically significant regulatory action based on health or safety risks subject to Executive Order 13045 (62 FR 19885, April 23, 1997);
- Is not a significant regulatory action subject to Executive Order 13211 (66 FR 28355, May 22, 2001);
- Is not subject to requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) because application of those requirements would be inconsistent with the CAA; and
- Does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898 (59 FR 7629, February 16, 1994).

In addition, the SIP is not approved to apply on any Indian reservation land or in any other area where EPA or an Indian tribe has demonstrated that a tribe has jurisdiction. In those areas of Indian country, the rule does not have tribal implications and will not impose substantial direct costs on tribal governments or preempt tribal law as specified by Executive Order 13175 (65 FR 67249, November 9, 2000).

The Congressional Review Act, 5 U.S.C. section 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60

days after it is published in the **Federal Register**. This action is not a “major rule” as defined by 5 U.S.C. section 804(2).

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2)).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: October 20, 2015.

Ron Curry,
Regional Administrator, Region 6.

40 CFR part 52 is amended as follows:

PART 52 - [AMENDED]

1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart LL ---- Oklahoma

2. In §52.1920, the table in paragraph (c) under the heading entitled “Chapter 100 (OAC 252:100). Air Pollution Control” is amended by:

- a. Removing the heading entitled “Subchapter 15. Motor Vehicle Pollution Control Devices” and the entries under this heading;
- b. Revising entries for “252:100-17-1” and “252:100-17-1.1”;
- c. Removing the entry for “252:100-17-1.2”;
- d. Adding an entry for “252:100-17-1.3” in numerical order;
- e. Revising entries for “252:100-17-2”, “252:100-17-2.1”, “252:100-17-2.2”, “252:100-17-4”, “252:100-17-5”, “252:100-17-5.1”, and “252:100-17-7”;
- f. Adding the heading entitled “Part 4. Biomedical Waste Incinerators” and entries for “252:100-17-8”, “252:100-17-9”, “252:100-17-10”, and “252:100-17-11” in numerical order;
- g. Revising entries for “252:100-19-1.1” and “252:100-19-11”;
- h. Revising the entry for “252:100-25-3”;
- i. Revising the entry for “252:100, Appendix A”;
- j. Removing the entry for “252:100, Appendix B”; and
- k. Revising entries for “252:100, Appendix C”, “252:100, Appendix D”, “252:100, Appendix E”, “252:100, Appendix F”, and “252:100, Appendix G”.

The revisions and additions read as follows:

§52.1920 Identification of plan.

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(c) * * *

EPA APPROVED OKLAHOMA REGULATIONS

State citation	Title/subject	State effective date	EPA approval date	Explanation
* * * * *				
CHAPTER 100 (OAC 252:100). AIR POLLUTION CONTROL				
* * * * *				
Subchapter 17. Incinerators				
Part 1. General Provisions				
252:100-17-1	Purpose	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-1.1	Reference to 40 CFR	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-1.3	Incinerators and fuel-burning equipment or units	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
Part 3. Incinerators				
252:100-17-2	Applicability	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	

			Register] [Insert Federal Register citation]	
252:100-17-2.1	Exemptions	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-2.2	Definitions	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				
252:100-17-4	Particulate matter	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-5	Incinerator design and operation requirements	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-5.1	Alternative incinerator design requirements	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-7	Test methods	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register	

			citation]	
Part 4. Biomedical Waste Incinerators				
252:100-17-8	Applicability	7/1/2011	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-9	Definitions	7/1/2011	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-10	Design and operation	7/1/2011	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100-17-11	Emission limits	7/1/2011	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
Subchapter 19. Control of Emission of Particulate Matter				
* * * * *				
252:100-19-1.1	Definitions	7/1/2009	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				
252:100-19-11	Allowable particulate matter emission rates from combined wood fuel and fossil fuel fired	7/1/2009	[Insert date of publication in the Federal Register] [Insert Federal	

	steam generating units		Register citation]	
* * * * *				
Subchapter 25. Visible Emissions and Particulates				
* * * * *				
252:100-25-3	Opacity limit	7/1/2009	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
* * * * *				
Appendices for OAC 252: Chapter 100				
252:100, Appendix A	Allowable Particulate Matter Emission Rate for Incinerators	7/11/2010	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100, Appendix C	Allowable Particulate Matter Emission Rates for Indirectly Fired Fuel-Burning Units	7/1/2009	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100, Appendix D	Allowable Particulate Matter Emission Rates for Indirectly Fired Wood Fuel-Burning Units	7/1/2009	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100, Appendix E	Primary Ambient Air Quality Standards	7/1/2011	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
252:100, Appendix F	Secondary Ambient Air Quality Standards	7/1/2010	[Insert date of publication in the Federal	

			Register] [Insert Federal Register citation]	
252:100, Appendix G	Allowable Particulate Matter Emission Rates for Directly Fired Fuel- Burning Units and Industrial Process	7/1/2009	[Insert date of publication in the Federal Register] [Insert Federal Register citation]	
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[FR Doc. 2015-27918 Filed: 11/2/2015 8:45 am; Publication Date: 11/3/2015]